

Benjamin T. Andersen
1000 SW Broadway #1740
Portland, Oregon 97205
t. 503.860.2531
bta@btandersen.com

Attorney for Defendant

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,
Plaintiff,

v.

Edmundo GONZALEZ-BARRERA,
Defendant.

Case No. 3:20-CR-505-IM-02

SENTENCING MEMORANDUM

Defendant, by and through counsel, asks this court to impose a sentence of **thirty months imprisonment**, which is the time Mr. Barrera has been in custody. Based on the circumstances of the offense, Mr. Gonzalez' limited role in that offense, and his history and characteristics (including age and lack of prior criminal history), a thirty-month sentence is sufficient but not greater than necessary to comply with the purposes of sentencing as laid out at 18 USC 3553(a).

A sentence of thirty months imprisonment is very near to the sentence asked for by the government and recommended by the presentence report. If Mr. Gonzalez is properly credited with the 30 months he has spent in custody and receives time off for good conduct at the statutory rate of 54 days per year, a 37-month sentence would leave him approximately two months to serve:

37 months
– 5 months good time
– 30 months already spent incarcerated.
2 months remaining.

DISAGREEMENT WITH THE PSR

Upon further review of the PSR, Mr. Gonzalez disagrees with the “Release Status” section on p. 1, which asserts that he will get credit for 29 months and five days of custody, the period from November 5, 2020, through the date of sentencing.

18 USC § 3585(b) dictates however, that he should receive credit for any time spent “in official detention” either because of the offense itself or for any other charge for which he was arrested after the offense “that has not been credited against another sentence.” Mr. Gonzalez was arrested at the scene of the offense on October 5, 2020. He was incarcerated by ICE then officially transferred to US Marshal custody on November 5. That month period of incarceration between October and November was not credited towards any other sentence, and so therefore should be credited toward the instant sentence. Mr. Gonzalez should receive credit for the time he served since his arrest on October 5, 2020, which is **30 months and 5 days**, not 29 months.

Respectfully submitted this 5th day of April 2023.



Benjamin T. Andersen, OSB 06256
Attorney for Defendant